

Application No. 09/709,809
Response to Office Action of August 3, 2004

REMARKS

In the Office Action of August 3, 2004, claims 1-42 stand rejected. In this response claims 28, 32, 34, 38 and 40 have been amended. Claims 1-10, 17-22, 30, 33, 39 and 41 have been cancelled. Reconsideration and allowance of all pending claims are respectfully requested in view of the following remarks. No new subject matter is being added by this response.

I. SPECIFICATION.

Corrections to the specification have been made. Specifically, in the Abstract the misspelled word "tuning" was corrected.

II. CLAIM REJECTIONS.

A. 35 U.S.C. § 103 Rejections.

To establish a prima facie case of obviousness under 35 U.S.C. § 103, three requirements must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. M.P.E.P. 2143. Because the Examiner has not established a prima facie case of obviousness the Applicant respectfully traverses this rejection.

Claims 1-42 stand rejected under 35 U.S.C. § 103 as unpatentable over U.S. Patent No. 5,220,681 to Belgin (*Belgin*) in view of, presumably, what is known in the art. Because *Belgin* either alone or in any combination fails to disclose, teach or suggest all limitations of the pending claims, this rejection should be withdrawn.

Belgin discloses a decoding and display system for use in a navigational unit aboard an aircraft. The system monitors transmissions and decodes Morse code for presentation visually or audibly to the pilot. The system generates a warning upon loss of signal (signal too low to detect) or a loss of power. (Col. 7, lines 41-50).

Considering claims 1-10, these claims have been cancelled, rendering their rejection moot.

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Claim 11, recites, in part, "wherein said controller communicates with said audio synthesizer when a malfunction is detected with respect to said display device". *Belgin* fails to disclose, teach or suggest such a limitation. The Examiner argues that *Belgin* discloses monitoring for an anomaly, which the Examiner asserts is the same as detecting a malfunction. However, *Belgin* discloses only the monitoring for the failure of the tunable filter/frequency discriminator or the power supply and not for the display device. (Col. 4, lines 1-6). The Examiner further argues that because of this limited teaching of monitoring parts of a system and the fact that *Belgin* indicates a display and/or audio device can be used to represent the decoded signals of *Belgin*, that one of ordinary skill in the art would find it obvious to monitor for any failure and respond as in the present invention. However, *Belgin* never discusses the use of audio feedback as a backup, just that visual and/or audio feedback can be used.

Additionally, *Belgin* discloses the generation of a "warning" message upon the event of an anomaly (defined by *Belgin* as a loss of signal by unit 10 or inadequate power supply voltage). However, nowhere in *Belgin* is there disclosed a controller communicating with the audio synthesizer when the display device fails. The Examiner provides no other art that shows such a controller. Further, even if such art existed, there is not teaching or suggestion in *Belgin* to make such a combination since the only teaching dealing with an anomaly is to generate a warning and not the use of a controller that "communicates with the audio synthesizer when a malfunction is detected with respect to said display device" as in claim 11.

Claims 12-16 depend from allowable claim 11; therefore, for at least this reason claims 12-16 are in condition for allowance.

Claims 17-22 have been cancelled, rendering this rejection moot.

Considering claim 23, claim 23, recites, in part, a processor which "(i) detects a first operating mode" that "tunes the apparatus to a predetermined frequency, if the first operating mode is detected". *Belgin* does not disclose a first operating mode. Nor does *Belgin* disclose tuning to a predetermined frequency if the first operating mode is detected. This limitation is not found in *Belgin*. Further, the Examiner has provided no other prior art that discloses such a limitation. Therefore, for at least this reason, claim 23 is in condition for allowance.

Claims 24-27 depend from allowable claim 23, for at least this reason, claims 24-27 are in condition for allowance.

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Also, claim 27 recites, in part, "wherein the first operating mode corresponds to a failure of the display device". *Belgin* does not disclose an operating mode that corresponds to a failure of the display device. Further, the Examiner has provided no other art or argument that discloses such a limitation. Therefore, claim 27 is also allowable for at least this reason.

Claim 28, recites, in part "visually presenting the first selected setting during a first mode" and "audibly presenting a second selected setting during a second mode, the second selected setting a default setting that is selected upon failure of a visual display". *Belgin* fails to disclose, teach or suggest a first mode and a second mode. Further, *Belgin* also fails to disclose, teach or suggest that the second mode sets a default setting. Additionally, *Belgin* fails to disclose, teach or suggest that the default setting is selected upon failure of the visual display. None of these limitations are found in *Belgin*. Finally, the Examiner has not provided any other art or arguments that disclose such limitations. Therefore, for at least these reasons claim 28 is in condition for allowance.

Claims 29 and 31 depend from allowable claim 28, for at least this reason, claims 29 and 31 are in condition for allowance.

Claim 32 recites, in part, "audibly announcing the first frequency during a second mode of operation; and the second mode of operation entered upon the inability to visually display the first frequency". As discussed previously, *Belgin* does not disclose multiple modes of operations. Also, *Belgin* does not disclose entering a mode of operation upon the inability to visually display the first frequency. Further, the Examiner fails to provide any art besides *Belgin*. Nor has any showing made been made that such limitations are known to one of skill in the art (and if such a suggestion was to be made, the Applicants would require documentation of such a fact as well as note that there is no teaching or suggestion in *Belgin* to have a mode of operation entered upon the inability to visually display the first frequency). Thus, claim 32 is in condition for allowance.

Claim 33 has been cancelled rendering this rejection moot.

Claims 34-37 depend from allowable claim 32. For at least this reason, claims 34-37 are in condition for allowance.

Claim 38 as amended, recites, in part "visually display the first frequency during a first mode of operation; audibly announce the first frequency during a second mode of operation; and the second mode of operation entered upon failure to visually display the first frequency. Claim

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38 contains similar limitations as claim 32 except claim 38 is a method claim. The reasons discussed above for the allowability of claim 32 apply to claim 38 as well.

Claim 39 has been cancelled, rendering this rejection moot.

Claim 40 recites, in part, "means for controlling communication with said displaying means and said audio synthesizing means, wherein said control means communicates with said audio synthesizing means when a malfunction is detected with respect to said displaying means". As discussed in conjunction with claim 11, *Belgin* never discusses the use of audio synthesizing means upon failure of a displaying means, only that visual and/or audio means can be used.

Additionally, as discussed previously, while *Belgin* discloses the generation of a "warning" message upon the event of an anomaly (defined by *Belgin* as a loss of signal by unit 10 or inadequate power supply voltage); no where in *Belgin* is there disclosed a means for controlling communication with the audio synthesizing means when the displaying means fails. The Examiner provides no art to be combined with *Belgin* that shows such a means for controlling. Further, even if such art existed, there is not teaching or suggestion in *Belgin* to make such a combination since the only teaching dealing with an anomaly is to generate a warning and not that "control means communicates with said audio synthesizing means when a malfunction is detected with respect to said displaying means" as in claim 40.

Claim 41 has been cancelled, rendering this rejection moot.

Claim 42 recites, in part, "software code stored on a computer readable medium, . . . comprising code to tune the apparatus to a predetermined frequency, if the first operating mode is detected; control the audio synthesizer to generate an audio announcement of a frequency at which the apparatus is currently tuned, if the first operating mode is detected." As discussed previously, *Belgin* does not disclose multiple modes of operations. Also, *Belgin* fails to disclose tuning to a predetermined frequency of the first operating mode is detected. Nor has any showing made been made that such limitations are known to one of skill in the art (and if such a suggestion was to be made, the Applicants would require documentation of such a fact as well as note that there is no teaching or suggestion in *Belgin* to have a mode of operation entered upon the inability to visually display the first frequency). Therefore, claim 42 is in condition for allowance.

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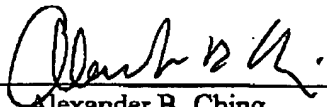
III. CONCLUSION.

For the foregoing reasons, the present application is believed to be in condition for allowance and favorable action is respectfully requested. The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

While no other fees are believed due, the applicant hereby requests that any other required fee to maintain pendency of this case, except for the Issue Fee, be charged to Deposit Account 50-2091.

? Respectfully submitted,

August 31, 2004
Date

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